Clerk of the Superior Court
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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
HONORABLE CHARLENE JACKSON

Shawn T Freeman
Petitioner

AND

Erin Anna Gerlach
Respondent

Case Number: FC2022-094055

TEMPORARY ORDERS

Effective September 24, 2022, the temporary orders provisions of Arizona Revised Statute Title 25 have been recodified under A.R.S. §25-316. Any references to A.R.S. §25-315 in this Temporary Order now refers to A.R.S. §25-316 and the provisions of §25-315(F) now appear in §25-316(D).

Father filed a Petition for Paternity, Legal Decision-Making and Parenting Time on September 7, 2022 and a Petition for Temporary Orders on September 13, 2022. Mother was served on October 25, 2022 by private process in California. The case was set for an Evidentiary Hearing on November 15, 2022, wherein Father advised the Court of jurisdictional issues with the state of California. Mother filed for and was issued a Temporary Restraining Order on November 9, 2022, and the California courts were exercising emergency jurisdiction over the child. On November 30, 2022, the California court determined that Arizona had proper jurisdiction and the matter in California was dismissed. This Court reset the Evidentiary Hearing for December 20, 2022. Shortly before the hearing, Mother Petitioned the California courts for another Temporary Restraining Order and the California courts exercised emergency jurisdiction over the Child. The Court conducted an UCCJEA conference call, on the record with Judge Wood, the issuing judge. Following that discussion, the California court determined, once again that Arizona is the child's home state. A third Evidentiary Hearing was scheduled for January 24, 2023. At the start of the hearing, Father's counsel advised the Court that Mother sent her a Notice of Appeal allegedly filed with the Arizona Court of Appeals, Division One on January 3, 2023. The document did not bear indicia of filing. The Court completed a review of the Court of Appeals website and did not find any case filed by Mother on the docket. The Court then proceeded with the Evidentiary Hearing. Mother fully participated.

The Evidentiary hearing in this matter occurred on 01/24/2023. During the proceedings, the Court has considered the evidence which includes where applicable/presented, the demeanor of the witnesses, reviewed the exhibits as well as the case history, and considered the parties' arguments and agreements.

As a preliminary matter, the Court notes that a temporary order is always subject to reassessment. A temporary order "[d]oes not prejudice the rights of the parties . . . that are to be adjudicated at the subsequent hearings in the proceeding." A.R.S. § 25-315(F)(1). A temporary order also "[t]erminates when the final decree is entered . . . ." A.R.S. § 25-315(F)(4). Even before the final decree, a temporary order "may be revoked or modified . . . on a showing by affidavit of the facts necessary to revocation or modification of a final decree under § 25-327," (i.e. changed circumstances). A.R.S. § 25-315(F)(2). A temporary order "[d]oes not prejudice the rights of the parties or of any child that are to be adjudicated at the subsequent hearings in the proceeding," A.R.S. § 25–315(F)(1); *see* Ariz. R. Fam. P. Rule 47(M) ("Temporary orders become ineffective and unenforceable upon termination of an action either by dismissal or following entry of a final decree...."). A.R.S. section 25–403 findings are not required on temporary orders. Gutierrez v. Fox, 242 Ariz. 259, 268, 394 P.3d 1096, 1105 (Ct. App. 2017), review denied (Apr. 18, 2017).

The Court emphasizes that the rulings set forth herein arise out of requests for temporary orders. As such, these rulings are provisional only and should not be read as the Court's final determination regarding any issue. The rulings are based on the limited evidence presented in an abbreviated hearing and with the understanding that the parties might not have completed all of their discovery and disclosure. Consequently, the parties should be aware that, at a future hearing, additional evidence might be produced and that such additional evidence might compel different rulings than those made herein.

The Court makes the following findings and enters the following orders:

JURISDICTION

THE COURT FINDS the following:

- That Shawn Freeman and Erin Gerlach have a child in common.
- Arizona was the child's home state on the date the temporary orders motion was filed or was the child's home state within six months before the filing of the temporary orders motion and the child is absent from this state but a parent or person acting as a parent continues to live in Arizona.
- That the Parental Kidnapping Prevention Act does not apply and that no international law concerning the wrongful abduction or removal of children applies.
- This matter was filed on September 9, 2022. The parties ended their romantic relationship in July 2022. In August 2022, Mother left Arizona with the child and traveled to California under the guise of seeking medical treatment. Father believed Mother's trip to be short term. Mother refuses to return to Arizona with the child. Mother has engaged in forum shopping in an effort to stall this case and interfere in the Court making a determination in this case.

PATERNITY

THE COURT FINDS that based on the testimony and evidence presented, Shawn Freeman is parent of the following minor child:

Brooklyn Jordan Freeman born on 2/12/2018 to Erin Gerlach

IT IS ORDERED declaring that Shawn Freeman is the legal parent of the following minor ***child***:

Brooklyn Jordan Freeman born on 2/12/2018 to Erin Gerlach

IT IS FURTHER ORDERED that the parties shall take all necessary steps to have the birth certificate of the minor child amended in accordance with this order if the correct information does not now appear on the original certificate. Information for amendment of a birth certificate may be obtained from the Office of Vital Records, Department of Health Services, 1818 W. Adams, Phoenix, Arizona 85007; Phone (602) 364-1300. A certified copy of this minute order may be obtained after ten days of receipt of same, and shall then be provided, together with all other required documents and fees, to the Office of Vital Records, so that the birth certificate can be amended or supplemented as ordered.

TEMPORARY LEGAL DECISION MAKING

Because the Court is addressing requests for temporary orders, the Court notes it is not required to make the type of detailed findings that would accompany final orders. The Arizona Court of Appeals has explained that the statutory requirement, set forth in A.R.S. § 25-403(B), for specific findings in disputed custody cases, "exists not only to aid an appellant and the reviewing court, but also for a more compelling reason—that of aiding all parties and the family court in determining the best interests of the child or children both current and in the future." *Reid v. Reid*, 222 Ariz. 204, 209, 213 P.3d 353, 358 (App. 2009). As to the latter reason, the specific findings "provide the family court with a necessary 'baseline' against which to measure any future petitions by either party based on 'changed circumstances.'" *Id.* By implication, this means that specific findings are not required for temporary orders. Thus, while the Court has considered all of the statutory requirements the Court declines to make detailed factual findings on each statutory factor on the various issues set forth below. However, the Court rules as follows:

For Brooklyn Freeman

Mother and Father ended their romantic relationship in July 2022. Mother left the state of Arizona under the guise of seeking medical treatment. She did not, has not and continues to refuse to return to Arizona. Mother obtained Temporary Protective Orders from the courts of the State of California on November 9, 2022. On November 30, 2022, Judge Zimel dismissed the Order of Protection for improper venue after hearing argument from counsel for Father that the alleged incident occurred in Arizona and that the child was not a resident of California. Even after this determination, Mother petitioned the California court for another Temporary Protective Order. On December 20, 2022, the Court conducted a UCCJEA conference call with Judge Wood and Arizona was, once again determined to be the child's home state.
Mother has engaged in forum shopping to intentionally interfere in these proceedings and prevent the child from returning to Arizona, thereby denying Father of substantial, frequent, meaningful and continuing Parenting Time with the child.
At trial, Father testified Mother threatened to leave with the child in the past. Father testified Mother made serious allegations against him in the past and this has caused his employer to complete Internal Affairs investigations a few times. Father also testified Mother has opened social media accounts in his name and posted videos about him. Father obtained a protective order to get the harassment and fake social media accounts to stop. (Exhibit 8) He testified Mother has changed her phone number multiple times but has texted with him at the same time (Exhibit 6). Father said the texts were about issue relating to their relationship. He testified Mother would also text inappropriate comments of a sexual nature and once sent him a photo of their stillborn son and asked Father if she could get child support for that child too. (Exhibits 5 and 7).
Mother testified Father's job affected the entire family. She testified she was the victim of domestic violence and didn't want any of it to come to light, so she just left. She testified she knew she was going to leave. She testified she gave Father an opportunity to visit with the child, but she knew Father was involved in an officer involved shooting so she changed her mind. Mother testified she does not think Father can care for the child and accuses him of injecting himself with substances. Mother admitted when she went to California, she wasn't sure that she wouldn't reconcile with Father.
Mother improperly and intentionally removed the child from the state without notice to Father and is improperly and intentionally denying Father of substantial, frequent, meaningful and continuing Parenting Time with the child.

IT IS ORDERED awarding Shawn Freeman sole legal decision-making authority regarding Brooklyn Freeman, as defined in A.R.S. § 25-401(6). For the purpose of this order,

"Sole legal decision-making" means one parent has the legal right and responsibility to make major decisions for the child.

IT IS FURTHER ORDERED Mother is ordered to return the child to Arizona immediately.

TEMPORARY PARENTING TIME

The Court has awarded sole legal decision making of the child to Shawn Freeman. Erin Gerlach, nonetheless, "is entitled to reasonable parenting time to ensure that the minor child has substantial, frequent, meaningful and continuing contact with the parent unless the Court finds, after a hearing, that parenting time would endanger the child's physical, mental, moral or emotional health."

THE COURT FINDS that the parenting time of Erin Gerlach must be supervised to protect the child's physical, mental, or emotional health. *See* A.R.S. § 25-403.01(D) and A.R.S. § 25-411(D); *see also Hart v. Hart*, 220 Ariz. 183, ¶16, 204 P.3d 441, ¶16 (App. 2009)

THE COURT FURTHER FINDS that Mother has demonstrated an intent to remove and keep the child from the jurisdiction of this Court and deny Father of a continuous and meaningful relationship with Father. Based upon her conduct and history, Mother's parenting time shall be supervised.

THE COURT THEREFORE FINDS that allowing Erin Gerlach to have unsupervised parenting time with the child would or could endanger seriously the child's physical, mental, or moral health or would significantly impair the child's emotional development.

THE COURT FURTHER FINDS Father is fit and able to provide for the child.
Mother has engaged in conduct to prevent this court from exercising jurisdiction and to interfere in Father having meaningful contact with the child.

IT IS THEREFORE ORDERED as follows:

1. Effective February 06, 2023, all parenting time assigned to Erin Gerlach shall be supervised by The parties are ordered to contact Arizonans for Children to complete intake for Mother's Parenting Time supervision. In the event Arizonans for Children is not available to conduct supervision, the parties may select another agency or trusted relative..
2. As applied here, supervision requires Mother may not be left with the child unsupervised.
3. At no time shall Erin Gerlach attempt to secure any unsupervised parenting time with the child.
4. Erin Gerlach's parenting time shall be: Once per week for four hours, based upon the availability of the supervising agency.
5. These terms shall continue to apply until modified by court order. For the Court to consider lifting the restrictions in this order, Erin Gerlach shall Pending further order of the Court.
6. Shawn Freeman shall be responsible for 0% and Erin Gerlach shall be responsible for 100% of all costs associated with supervised parenting time.

Holiday Schedule: The Holiday Schedule does not apply at this time.

Summer/Vacation: Parents will follow regular weekday/weekend parenting time schedule.

IT IS ORDERED that the following terms shall apply:

1. **Child's Communication With Both Parents:**

   - Each parent shall have reasonable telephone contact with the child when the child is in the care of the other parent.

- Mother is allowed to communicate with the child via FaceTime or other electronic means between 7:00 pm and 8:00 pm daily.

2. **Parental Access To Records And Information:** Both parents are entitled to have equal access to prescription medication, documents, and other information concerning the child's, education and physical, mental, moral and emotional health including medical, school, police, court and other records directly from the custodian of the records or from the other parent. A person who does not comply with a reasonable request shall reimburse the requesting parent for court costs and attorney fees incurred by that parent to force compliance with this subsection. A parent who attempts to restrict the release of documents or information by the custodian, without a prior court order, is subject to appropriate legal sanctions.
3. **Prescription Medications:** A parent with joint legal decision-making authority shall not designate one pharmacy in a single location as the only source of the child's prescription medication without agreement of the other parent. A parent who attempts to withhold prescription medication without a prior court order is subject to appropriate legal sanctions.
4. **Relocation:** Neither Shawn Freeman nor Erin Gerlach shall relocate the residence of the child outside of the state of Arizona or to a distance greater than 100 miles from the current residential locations without compliance with A.R.S. § 25-408. Any findings that a party has failed to comply may result in sanctions against that party pursuant to the same statute.
5. **Mediation Or Conciliation Services:** The parties are required to participate in mediation through a private mediator as agreed or through this Court's Conciliation Services to attempt to resolve any disputes, problems or proposed changes regarding legal decision-making or parenting time before an evidentiary hearing on any legal decision-making or parenting time issues.
6. **Periodic Review:** It is recognized that the needs of the child may change over time. At a minimum, the parents shall review the terms of this overall plan at least every 12 months to address whether any changes may be appropriate.
7. **Sex Offenders:** In accordance with A.R.S. § 25-403.05(B), a parent must notify the other parent immediately if the parent knows that a convicted or registered sex offender or a person who has been convicted of a dangerous crime against children (as defined in A.R.S. § 13-705) may have access to the child. The parent must provide notice by first class mail (return receipt requested), by electronic means to an electronic mail address that the recipient provided to the parent for notification purposes or by other communication accepted by the Court.
8. **Notify Other Parent of Address Change**: Each parent will inform the other parent of any change of address and/or phone number in advance or within 14 days of the change.
9. **Notify Other Parent of Emergency:** Both shall promptly inform the other parent of any emergency or other important event that involves the minor child.
10. **Cooperate and Work Together**: Both parents shall exert their best efforts to work cooperatively in future plans consistent with the best interests of the minor child and to amicably resolve such disputes as may arise.
11. **Notify Other Parent of Problems with Parenting Time Ahead of Time** If either parent is unable to follow through with the Parenting Time arrangements involving the minor child, that parent shall notify the other parent as soon as possible.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

HONORABLE CHARLENE JACKSON

Freeman and Gerlach Case Number: **FC2022-094055**

CHILD SUPPORT

THE COURT FINDS that:

- The relevant financial factors and the discretionary allowances and adjustments which the Court will allow for a current calculation of child support pursuant to the Arizona Child Support Guidelines are set forth in the Child Support Worksheet and order which the Court hereby incorporates and adopts as its findings with respect to child support.
- **Child Support:** Erin Gerlach is obligated to pay child support to Shawn Freeman pursuant to the Arizona Child Support Guidelines in the amount of $405.00 per month. Application of the child support guidelines in this case is inappropriate or unjust. The Court has considered the best interests of the child in determining that a deviation is appropriate. After deviation the child support order is $0.00 per month. Further, the parties have entered into a written or record agreement free of duress and coercion to deviate with knowledge of the amount of child support that would have been ordered under the guidelines but for the agreement.Father indicates he is able to provide for the child and requested Mother pay no support.

IT IS THEREFORE ORDERED that:

- **Child Support:** Erin Gerlach shall pay child support to Shawn Freeman in the sum of $0.00 per month, payable on the 1st day of each month commencing 03/01/2023 by income withholding order.

ADDITIONAL ORDERS

IT IS ORDERED The Court finds Mother's conduct to be unreasonable and served only to prolong this matter. Father's counsel is to submit a China Doll affidavit for the Court to consider an award of attorney's fees within 20 days of this order. Mother shall file any objections within ten days thereafter. If Mother fails to file an objection, Mother's objection will be deemed waived.

IT IS FURTHER ORDERED denying any affirmative relief sought before the date of this Order that is not expressly granted above.

Done in open Court on: 02/06/2023

Judge Charlene Jackson

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

HONORABLE CHARLENE JACKSON

Freeman and Gerlach Case Number: **FC2022-094055**

Shawn T Freeman
(Petitioner)

AND

Erin Anna Gerlach
(Respondent)

Case Number: FC2022-094055
Atlas Number:

CHILD SUPPORT ORDER

THE COURT FINDS that:

1. Shawn Freeman and Erin Gerlach owe a duty to support the following child:

Child Name	Date of Birth
Brooklyn Freeman	02/12/2018

2. **Child Support Guidelines:** The required financial factors and any discretionary adjustments pursuant to the Arizona Child Support Guidelines are as set forth in the Child Support Worksheet, attached and incorporated herein by reference.
3. **Child Support:** Erin Gerlach is obligated to pay child support to Shawn Freeman pursuant to the Arizona Child Support Guidelines in the amount of $405.00 per month. Application of the child support guidelines in this case is inappropriate or unjust. The Court has considered the best interests of the child in determining that a deviation is appropriate. After deviation the child support order is $0.00 per month. Further, the parties have entered into a written or record agreement free of duress and coercion to deviate with knowledge of the amount of child support that would have been ordered under the guidelines but for the agreement.Father indicates he is able to provide for the child and requested Mother pay no support.
4. **Support Arrears:** Arrears not addressed.
5. **Past Support:** No Past Support Judgment will be entered.
6. **Factors:** Father's income calculated from Exhibit 1. Mother was imputed minimum wage income.

IT IS ORDERED that:

1. **Child Support:** Erin Gerlach shall pay child support to Shawn Freeman in the sum of $0.00 per month, payable on the 1st day of each month commencing 03/01/2023 by income withholding order.
2. **Arrearage Judgment:** No additional judgment for child support arrears is entered.
3. **Past Support:** No judgment for Past Support is entered.
4. **Total Monthly Payments:** Erin Gerlach shall make total monthly payments to Shawn Freeman of $0.00 per month payable on the 1st day of each month commencing 03/01/2023 as follows:

Current Child Support payment as ordered above:	$0.00
Child Support Arrearage payments:	$0.00
Current Spousal Maintenance payment:	$0.00
Past Due Spousal Maintenance payment:	
Clearinghouse Handling Fee:	$0.00
Total Monthly Payment:	$0.00

5. **Clearinghouse:** All payments shall be made through the Support Payment Clearinghouse pursuant to an income withholding order signed this date. Any time the full amount of support is not withheld, Erin Gerlach remains responsible for the full monthly amount ordered. Payments not made directly through the Support Payment Clearinghouse shall be considered *gifts* unless otherwise ordered. All payments shall be made payable to and mailed directly to:

   Support Payment Clearinghouse
   P.O. Box 52107
   Phoenix, AZ 85072-2107

   Payments must include the Payor's name, ATLAS number, and Social Security Number.

6. **Current Address:** Pursuant to A.R.S. § 25-322, the parties shall submit current address information in writing to the Clerk of the Superior Court and the Support Payment Clearinghouse immediately. Erin Gerlach shall submit the names and addresses of their employers or other payors within 10 days. The parties shall submit address changes within 10 days of the change.

7. **Information Exchange:** The parties shall exchange financial information including copies of tax returns, earnings statements, a Parent's Worksheet for Child Support Amount, residential addresses and the names and addresses of their employers every 24 months.

IMPORTANT INFORMATION

8. **Other Orders:** If this is a modification of child support, all other prior orders of this Court not modified remain in full force and effect.

9. **Emancipation:** Generally the obligation to pay child support in the full amount ordered herein continues until the court formally modifies this order with a new order upon request of one of the parties or when the youngest child is emancipated. A child is emancipated:
   On the date of the child's marriage.
   On the child's 18th birthday and graduation from high school or age 19 (whichever comes first).
   When the child is adopted.
   When the child dies.

10. Even though there are orders regarding medical insurance and the allocation of the right to claim a child as a dependent for the purposes of federal taxes contained in this judgment, this is not binding on the IRS. Under the Affordable Care Act, the parent who claims the child as a dependent on a federal tax return has the obligation to ensure that the child is covered by medical insurance and may be penalized by the IRS for failing to do so.

Dated: 02/06/2023

Judge Charlene Jackson

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
HONORABLE CHARLENE JACKSON

CHILD SUPPORT WORKSHEET

Petitioner: Shawn T Freeman **Case No: FC2022-094055**

Respondent: Erin Anna Gerlach **ATLAS No:**

Total Number of Children: 1

Presumptive Termination Date: 5/31/2036

	Shawn Freeman	Erin Gerlach
CHILD SUPPORT INCOME:	**$6,364.60**	**$2,400.67**
Adjustments to Child Support Income		
Spousal Maintenance (Paid/Rec'vd):		
Court Ordered Child Support of Other Relationships (Actually Paid):		
Custodian of Other Child Subject of Order:		
Support of Other Natural or Adopted Children NOT Ordered:	$0.00	$0.00
ADJUSTED CHILD SUPPORT INCOME:	**$6,364.60**	**$2,400.67**
Combined Adjusted Child Support Income:		$8,765.27
Primary Residential Parent is: Shawn T Freeman		
BASIC COMBINED CHILD SUPPORT OBLIGATION FOR 1 CHILD		**$1,162.00**
Plus Costs for:		
Adjustment for 0 child over age 12 at (10.00)%:		$0.00
Medical, Dental, and Vision Insurance:	$317.00	
Monthly childcare costs for 1 child:		
Extra Education Expenses:		
Extraordinary (Gifted or Special Needs) Child Expenses:		
TOTAL CHILD SUPPORT OBLIGATION		**$1,479.00**
Each Parent's Proportionate Percentage of Combined Adjusted Child Support Income:	72.61%	27.39%
Each Parent's Proportionate Share of Total Child Support Obligation:	**$1,073.90**	**$405.10**
Parenting Time Adjustment for: Erin Gerlach		
Parenting Time Table (C) for (13) days at (0.00)%:		**$0.00**
Total Additions to Child Support Obligation paid by each parent:	**($317.00)**	**$0.00**
PRESUMPTIVE CHILD SUPPORT OBLIGATION:	**$756.90**	**$405.10**

SELF SUPPORT RESERVE TEST	
Erin Gerlach Adjusted Gross Income:	$2,400.67
Less Paid Arrearages Allowed:	
Less Self Support Reserved Amount:	$1,921.92
Discretionary Income:	$478.75

MONTHLY CHILD SUPPORT AMOUNT TO BE PAID BYErin Gerlach TO Shawn Freeman:	**$405.00**

ENDORSEMENT PAGE

CASE NUMBER: FC2022-094055 SIGNATURE DATE: 2/6/2023

E-FILING ID #: 15503601 FILED DATE: 2/14/2023 8:00:00 AM

CAITLIN L ANDRADE

ERIN ANNA GERLACH
35932 WILCOX LANE MURRIETA CA 92562

AZ DEPARTMENT OF VITAL RECORDS